

**IN THE UNITED STATES DISTRICT COURT**

FILED  
BILLINGS DIV.

**FOR THE DISTRICT OF MONTANA**

2007 MAY 14 PM 12 50

**BILLINGS DIVISION**

PATRICK E. DUFFY, CLERK

**DALE BOWSER, individually and on  
behalf of his minor children K.B. and  
L.B.,**

**Plaintiff,**

**vs.**

**STATE OF MONTANA, et al.,**

**Defendants.**

CV-04-69-BLG-RFC  
BY \_\_\_\_\_  
DEPUTY CLERK

**ORDER ADOPTING FINDINGS  
AND RECOMMENDATIONS OF  
U.S. MAGISTRATE JUDGE**

On April 16, 2007, United States Magistrate Judge Carolyn S. Ostby entered Findings and Recommendations in this case. Magistrate Judge Ostby recommends this Court dismiss Plaintiff's complaint on the grounds that Plaintiff refused to accept mail from this Court. Plaintiff's refusal to accept mail comes after the Court took the unusual step to appoint counsel for the limited purpose of assisting Plaintiff in drafting his Amended Complaint. As noted by Magistrate Ostby, the Court has no obligation to continue a case which Plaintiff refuses to accept mail. In addition to recommending dismissal, Magistrate Judge Ostby recommends this Court certify that any appeal by Plaintiff from this disposition should be taken in bad faith pursuant to Fed.R.App.P. 24(c).

Upon service of a magistrate judge's findings and recommendation, a party has 10 days to file written objections. 28 U.S.C. § 636(b)(1). In this matter, no party filed objections to the April 16, 2007 Findings and Recommendation. In fact, Plaintiff again refused to accept mailing

containing Magistrate Judge Ostby's Findings and Recommendations. Failure to object to a magistrate judge's findings and recommendation waives all objections to the findings of fact. *Turner v. Duncan*, 158 F.3d 449, 455 (9th Cir. 1999). However, failure to object does not relieve this Court of its burden to review de novo the magistrate judge's conclusions of law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989).

After reviewing the record and applicable law, this Court finds Magistrate Judge Ostby's Findings and Recommendations are well grounded in law and fact and adopts them in their entirety.

Accordingly, **IT IS HEREBY ORDERED** Plaintiff's Amended Complaint (*Doc. 12*) is **DISMISSED**. Further, this Court **CERTIFIES** that any appeal taken by Plaintiff from this disposition should be taken in bad faith

The Clerk of Court shall notify the parties of the making of this Order and close this case.

DATED the 14 day of May, 2007.



RICHARD F. CEBULL  
UNITED STATES DISTRICT JUDGE